

2007 Fact Sheet:

Protecting patients, providing care

QUESTIONS AND ANSWERS ABOUT LEGISLATION THAT WILL MODIFY STATUTORY CONFLICTS BETWEEN TREATMENT RECORDS AND EFFECTIVE CARE:

Why is the Department of Social and Health Services proposing this legislation?

The department is deeply concerned about the health and safety of clients involved in high-risk use of certain medications. Our review of claims data has identified:

- Clients with multiple prescribers
- Clients using dosages that dramatically exceed those supported in literature
- Clients using drugs that are contraindicated for certain conditions
- Clients regularly exposed to combinations of drugs that can be lethal
- Clients receiving mental health treatment in emergency rooms

In many cases, providers do not know all the drugs an individual is taking, or whether they are taking the medications as prescribed. Sharing prescription, emergency room and hospital information is absolutely necessary to ensure the safety and health of these clients. Current initiatives in the Health and Recovery Services Administration have shown clearly that timely prescription information allows providers to target these high-risk situations and intervene to prevent severe consequences. Cooperation between medical and chemical dependency services has provided dramatic results over the past two years, but efforts to include mental health-related information in a similar process have been hampered by state confidentiality provisions that severely restrict providers' access to mental health patient records. To our knowledge, these provisions are unnecessarily severe and unique to Washington State.

What kind of information are we talking about?

This change would allow the department to share prescription, emergency room and hospital information with providers who are currently prescribing medication for the patients identified. This information would be derived from medical billing data received by Washington Medicaid from pharmacies, outpatient clinics, emergency rooms and hospital services. At times, mental health diagnoses may be contained in this medical billing data -- for example, a person with schizophrenia admitted for a bleeding ulcer related to alcohol use who has psychosis because anti-psychotics were discontinued during the hospital stay. Under current law, the client's mental health drugs, psychosis and diagnosis of schizophrenia could not be shared with medical providers even though they are directly involved in his or her treatment. In many cases, it could be life-threatening to withhold this prescription, emergency room and hospitalization information from prescribing providers.

What are the consequences for these clients? Frequently as many as five or six prescribers may be involved in dispensing multiple mental health medication for the same patient. In these cases coordination of prescription care is vital for the health and safety of these clients. Further, they are less likely to continue taking their medication, resulting in extremely negative outcomes. Studies show only 25 percent to 30 percent of these clients are able to adhere to atypical antipsychotic use. Another recent study showed that elderly patients with dementia-related behaviors were at increased risk of death after treatment with mental health drugs. Other data show persons prescribed an anti-depressant are only 40 percent adherent to medication at 12 weeks.

Does this legislation mean mental health patient records will no longer be protected?

No. Like any medical record, mental health treatments remain confidential with strict controls on access and use. This legislation removes an additional and unnecessary layer of confidentiality that bars providers and payers from sharing pertinent data on a need-to-know basis. The change applies only to cases in which Washington Medicaid pays for medical services (i.e., prescription, emergency room and

hospital) that in some cases may treat both medical and mental health conditions. Other information will not be shared. For example, Regional Support Networks contract with Washington Medicaid to deliver mental health care around the state. This data will remain confidential and cannot be shared without written consent. Washington Medicaid also contracts with substance and alcohol treatment providers for screening and rehabilitation care. Again, this data will not be shared without written consent. The only information to be shared is data that apply directly to prescription issues involved in a specific patient's care.

Who will receive this information when it is shared?

The medical information derived from Medicaid claims will only be shared with those prescribing providers who have a direct interest in a specific patient's care. This includes physicians, Regional Support Networks' mental health providers, emergency room providers, Advanced Registered Nurse Practitioners and other primary care providers – all must have provided prescriptions to the specific client and have a client-provider relationship with him or her. This kind of information-sharing is permitted under federal privacy rules in the "coordination of care" provisions of the Health Insurance Portability and Accountability Act (HIPAA). The legislative change actually brings conflicting statutes into compliance and improves coordination of care.

What additional safeguards are there to prevent inadvertent release of confidential data?

- Under HIPAA rules, providers may have access to medical data for the purposes of care coordination. Clients are required to sign HIPAA consent forms prior to services be offered by a prescribing provider. Clients will have to sign an additional consent for information concerning mental health counseling services, inpatient psychiatric care or alcohol/drug treatment. Simply put, providers already face strict rules on how they may use or exchange pertinent patient records. This change in Washington law does not jeopardize a patient's privacy or the confidentiality of his or her medical records.
- The state will take an additional step in cases where medical billing information may contain a mental health diagnosis or prescription for mental health drugs. In those cases, the agency will send notification to the client concerning the type of information that was shared and list the providers who received it.
- The proposed change allows the state to share this information only in cases where there is evidence of a potential safety risk or evidence of poor coordination of care. Examples include: multiple prescribing doctors, multiple emergency room visits in a short period of time, large amounts of narcotics mixed with mental health drugs, evidence of poor drug adherence, and multiple hospital admissions or readmissions. These all represent cases in which providers have a clear need to know that a client's health and well being are severely at risk.